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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

-----X
ANGELO PENA, ROLANDO ROJAS, JOSE
DIROCHE, FRANKLIN SANTANA,
CHRISTAIN SANTOS, LUIS RAMON
LUNA, MIGUEL ALCANTARA, MIGUEL
GARCIA, MIGUEL ROJAS, VICTOR
GONZALEZ, JOSE DE ARCE REYES, and
EDISON ALVAREZ,

Plaintiffs,

-against-

SP PAYROLL, INC., NICHOLAS PARKING,
CORP., IVY PARKING, CORP.,
BIENVENIDO, LLC, CASTLE PARKING
CORP., SAGE PARKING CORP., and SAM
PODOLAK,

Defendants.

07 CV 7013

AFFIDAVIT OF ANGELO PENA

ECF Case

-----X
STATE OF NEW YORK)
) ss:
COUNTY OF NEW YORK)

I, Angelo Pena, being duly sworn and under penalty of perjury, depose and state as follows:

1. I reside at 341 E. 193rd Street, Apt 1, Bronx, NY 10458.
2. I am currently employed as a parking attendant of a chain of garages owned and operated by the above-mentioned Defendants.

3. I started my employment with the Defendants on or about October 2003, and I have worked at various locations throughout Manhattan and the Bronx.

4. In approximately late 2005, or perhaps early 2006, I was required to sign a document that stated that I had to take a meal break (hereafter known as the "Lunch Break Form").

5. Raj, my manager, said that I had to sign the Lunch Break Form, and as I stated before in my deposition, I did not have the opportunity to read it.

6. It was simply presented as a requirement by Raj, who had me sign it without reading it.

7. Prior to signing the Lunch Break Form, I had not been able to take any lunch break. In fact, neither I, nor my fellow co-workers whom I observed, were able to take any lunch breaks – or any breaks of any kind - because we were required to stay at the garage at all times, and never were allowed any time off.

8. In addition, since I signed the Lunch Break Form, I have never been able to take any kind of breaks on the job.

9. Yet, Defendants take an hour out of my pay each day for this break, which I am unable to take.

10. Most of the time, we work alone. However, on occasion, we work with other co-workers.

11. Although we work occasionally with other people, that fact does not change the requirement that we stay in the garage at all times during our shifts.

12. For example, I have been assigned to work at the Bienvenido Garage for more than a year. In this position, I am required to work by myself during my shift and therefore, I cannot take a meal break.

13. Even when I am reassigned to cover for absent co-workers in other parking lots, and have other parking attendants assigned to work with me during my shift, I cannot take my lunch break because there is still too much work to do.

14. I have not received any additional cash or payment in my check for the lunch hour since I was required to sign the Lunch Break Form.

15. This document has been translated to me in my native language of Spanish, and I fully comprehend the contents. ("Este documento a sido traducido y yo comprendo todos los terminos.")

16. I respectfully submit this affidavit in support of my reply in opposition to Defendants' motion for summary judgment.


Angelo Pena

Sworn to before me
This 11th Day of August 2008.


NOTARY PUBLIC

YOLANDA RIVERO
Notary Public, State of New York
No. 02RI6061584
Qualified in Queens County
Commission Expires July 16, 2011

VERIFICACIÓN

Angelo Pena, debido siendo jurado, depone y dice:

Soy un demandante en la acción antedicha. Me han leído la declaración jurada precedente en español, y sé su contenido, y en cuanto a las materias alegadas por mí, es verdad a mi propio conocimiento.


Angelo Pena

Jurado antes a mí
El 11 de Agosto 2008.


Notario Publico

YOLANDA RIVERO
Notary Public, State of New York
No. 02R16061584
Qualified in Queens County
Commission Expires July 16, 2011

VERIFICATION

Angelo Pena, being duly sworn, deposes and says:

I am a plaintiff in the above action. I have been read the foregoing Affidavit in Spanish, and know its contents, and as to the matters alleged by me, it is true to my own knowledge.


Angelo Pena

Sworn to before me
This 11th day of August 2008.


Notary Public

YOLANDA RIVERO
Notary Public, State of New York
No. 02RI6061584
Qualified in Queens County
Commission Expires July 16, 2011